

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

WILLIAM F. BANKHEAD,

Plaintiff,

-v-

JOHN MERCANDETTI, et al.,

Defendants.

MEMORANDUM DECISION  
AND ORDER

10 CV 4134(GBD) (JLC)

GEORGE B. DANIELS, District Judge:

*Pro se* Plaintiff William F. Bankhead brought this action to assert various false arrest and imprisonment claims. This Court referred the matter to Magistrate Judge James L. Cott for general pretrial supervision and to report and recommend with respect to any dispositive motions. However, Plaintiff never served any of the defendants, despite the Magistrate Judge granting two separate requests by the Plaintiff for an extension of time to serve the defendants. Magistrate Judge Cott issued a Report and Recommendation recommending that the complaint be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m).

The Court may accept, reject or modify, in whole or in part, the findings and recommendations set forth within the Report. 28 U.S.C. § 636(b)(1). When there are objections to the Report, the Court must make a de novo determination of those portions of the Report to which objections are made. Id.; see also Rivera v. Barnhart, 432 F. Supp. 2d 271, 273 (S.D.N.Y. 2006). The district judge may also receive further evidence or recommit the matter to the magistrate judge with instructions. See Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1)(c). It is not required, however, that the Court conduct a de novo hearing on the matter. See United States v.

Raddatz, 447 U.S. 667, 676 (1980). Rather, it is sufficient that the Court “arrive at its own, independent conclusions” regarding those portions to which objections were made. Nelson v. Smith, 618 F.Supp. 1186, 1189-90 (S.D.N.Y. 1985) (quoting Hernandez v. Estelle, 711 F.2d 619, 620 (5th Cir. 1983)). When no objections to a Report are made, the Court may adopt the Report if “there is no clear error on the face of the record.” Adee Motor Cars, LLC v. Amato, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005) (citation omitted).

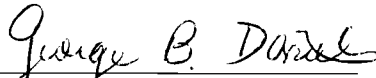
In his report, Magistrate Judge Cott advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). This Court has received no objections, and the time to do so has expired. After carefully reviewing the Report, this Court finds that the Report is not facially erroneous, and adopts the Report’s recommendation to dismiss this action without prejudice.

#### **CONCLUSION**

The Complaint is DISMISSED without prejudice. The Clerk of the Court is directed to close this action.

Dated: New York, New York  
August 19, 2011

SO ORDERED:

  
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GEORGE B. DANIELS  
United States District Judge